



Recent Trends in State Legislative Exclusionary Discipline Reform

In response to high rates of exclusionary discipline in schools, and the disproportionate application of it to minority students,¹ the US Department of Education under President Obama released guidelines on school disciplinary policies. The policy sought to improve overall school climate, raise academic achievement, and support student success while also ensuring fairness and equity in disciplinary action. Secretary of Education Betsy DeVos is considering rescinding the guidelines,² thus limiting the federal government's role in forming school disciplinary policy.

While the federal government might remove itself as a guide, there has been a burgeoning interest at the state level to address school discipline. Between January 2017 and April 2018, 20 legislatures (19 states and Washington, DC) have proposed or enacted laws requiring school systems to limit the use of punitive disciplinary measures, such as suspension and expulsion, in favor of positive disciplinary alternatives.

WHAT IS THE ISSUE AND WHY DOES IT MATTER?

Exclusionary discipline is any type of school disciplinary action that removes or excludes students from their usual educational setting.³ Common examples include out-of-school suspensions and expulsions. Typically, school personnel rely upon exclusionary discipline to punish and deter misbehavior without addressing the root causes or underlying reasons for such behavior.

Exclusionary discipline is associated with significant negative effects on students, schools, and society, including the following:

- Disrupting a student's learning process, causing the student to fall behind academically¹
- Student disengagement and negative school attitudes^{1,4}
- Increasing the likelihood of a student repeating grades, dropping out of school altogether, and becoming involved with criminal justice systems⁵
- Failing to provide students with tools to understand, adjust, or correct their misbehavior and exacerbating behavioral issues^{1,4}
- Contributing to a negative school climate⁶
- Decreasing students' earning potential and adding costs to society such as incarceration and lost tax revenue^{7,8}

One of the most significant concerns regarding the use of exclusionary discipline is the documented disproportionality of its application, with much higher rates of suspensions and expulsions for black students, especially black boys, and students with a disability.⁷ Reducing the use of exclusionary discipline, therefore, is integral to ensuring educational equity.

OUR FOCUS

Which legislatures are recently acting to reform exclusionary discipline? Of the state legislatures that are addressing this issue, what actions are they taking?

We focus specifically on legislative action taken from January of 2017 through April of 2018 because, more so than action taken prior to this time frame, it requires

more immediate attention and support. We did not include state activity prior to 2017 or non-legislative state activity. It is possible that states not included in our review have already acted to reform exclusionary discipline, but these are most likely either stalled or in the implementation phase, and neither status warrants an extended legislative analysis.

We focus on the *state* level rather than local level, given the multiplier of state activity combined with the renewed and increased responsibility states have over their education policy in the wake of the Every Student Succeeds Act.

FINDINGS

- Recently, many states have proposed or enacted bills to reduce the use of exclusionary discipline.
- States vary in their approaches, but several trends show:
 - Prohibiting exclusionary discipline by grade level and infraction type
 - Allowing or encouraging schools to use alternatives to exclusionary discipline before resorting to exclusionary discipline
 - Requiring state Departments of Education to develop model discipline policies that reduce the use of exclusionary discipline
- States are failing to support such policy implementation with adequate funding and requirements for teacher training and professional development.

RECENT REFORM AROUND EXCLUSIONARY DISCIPLINE BY STATES HAS INCREASED

Momentum has recently picked up in promulgating legislation that addresses the use of exclusionary discipline in schools. Between January 2017 and April 2018, 20 legislatures enacted or proposed laws limiting the use of, or aiming to reduce, exclusionary discipline in public schools.

Figures 1 and 2 show that in the first four months of 2018 alone, 13 legislatures have proposed bills, with two states passing legislation.* This shows a significant uptick from 2017, when only nine states proposed legislation concerning the use of exclusionary discipline in schools for the entire year. **Appendix A** provides a detailed table of this legislative activity.

11 legislatures acted to prohibit the use of exclusionary discipline for younger grades, with exceptions for serious or dangerous behavior; however, the grade span varies among the states:

- Illinois acted to prohibit in grades PreK and K (separately as two bills, both in 2018)
- Tennessee acted to prohibit in grades PreK–K
- Arizona and Maryland acted to prohibit in grades PreK–2

- Ohio and Texas acted to prohibit in grades PreK–3
- Washington State acted to prohibit in grades K–2 (did not pass)
- New York and Virginia acted to prohibit in grades K–3
- Arkansas and Pennsylvania acted to prohibit in grades K–5

Two legislatures acted to prohibit within a wider grade span that includes students above fifth grade:

- California for grades K–12 (did not pass)
- Washington, DC for grades K–8 (pending)

10 of the 13 legislatures that acted to prohibit the use of exclusionary discipline provided replacement disciplinary strategies.

- These include frameworks such as Positive Behavioral Interventions and Supports (PBIS), restorative justice practices aimed at conflict resolution, and prevention-focused social-emotional learning (SEL)

*Washington's bill, which failed in 2018, is not counted in the bills proposed in 2018 as it was originally proposed in 2017 and carried over to the next legislative session.

Fig. 1. In 2017, 7 states passed legislation, 1 state failed to pass legislation, and 1 state carried legislation over to the 2018 legislative session.

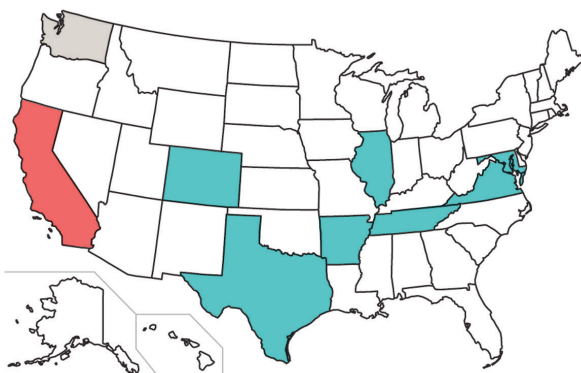
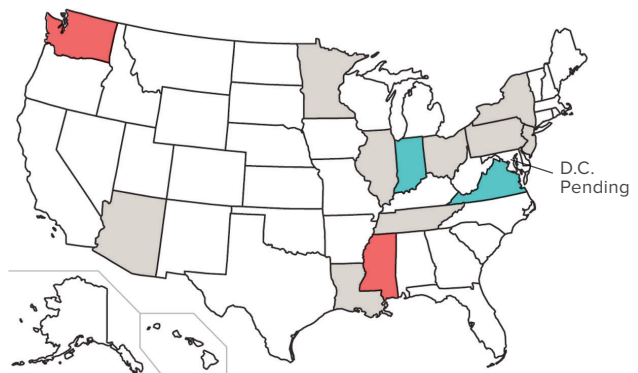


Fig. 2. In 2018, 2 states passed legislation (including WA which carried over from 2017), and 10 legislatures still have bills pending.



Passed Failed Pending

Seven state legislatures took action on exclusionary discipline without outright prohibiting it.

- Louisiana and Mississippi proposed legislation that allows for the use of alternatives to exclusionary discipline, while Minnesota requires the use of non-exclusionary measures before suspensions and expulsions
- Massachusetts and Indiana require their state Departments of Education to develop model standards that reduce the use of exclusionary discipline in schools, with neither state prescribing replacement strategies to be included in the model
- Only two, Mississippi and Minnesota, provide replacement strategies, while one state, Colorado, requires their strategies to be culturally responsive

States are not consistently supporting transitions from exclusionary discipline with appropriate funding and teacher training.

- Nine out of 20 legislatures would require certified teachers to obtain professional development and training on new practices
- Four out of 20 legislatures would require changes at teacher prep institutions to provide coursework on new practices
- Only five out of 20 legislatures recognize the need to fund this transition and do so by mentioning funding in the bill; however, only Ohio has made an appropriation in support of the reforms

New York and Ohio are potential exemplars.

- In 2018, New York and Ohio proposed comprehensive legislation that prohibits the use of exclusionary discipline in lower grades, offers replacement strategies, and provides for teacher prep and professional development; Ohio explicitly dedicates an appropriation, while New York authorizes the Commissioner to provide funds to the extent that the state budget includes an appropriation

Who we are: Founded in 1978 and headquartered in Seattle, Committee for Children is a global nonprofit dedicated to helping children's social-emotional well-being across the globe. Committee for Children works closely with educators, parents, policymakers, and partner organizations to advocate public policies, provide research-based materials, and serve as leaders in the field. Today, the organization reaches more than 25,000 schools in the US and more than 70 countries worldwide.

More Limited Approaches to Reforming Exclusionary Discipline

A subset of the states in our analysis took a more limited approach. These bills can generally be categorized into four groups:

- Establishing pilot and grant programs that focus on reducing exclusionary discipline (*Colorado, Illinois, New Jersey*)
- Creating commissions to study effects of exclusionary discipline and make recommendations for reducing its use (*Louisiana, Tennessee, Maryland*)
- Requiring the Department of Education to develop model alternative disciplinary standards for consideration by local schools and school systems (*Indiana, Massachusetts, Virginia*)
- Allowing schools to use alternative strategies but not requiring them to do so (*Mississippi*)

Some states have several pieces of legislation, which together combine a limited approach, such as creating a task force to study the effects of exclusionary discipline, with a more robust approach, such as prohibiting the use of exclusionary discipline for certain grade spans. These states are Illinois, Maryland, Tennessee, and Virginia.

Republican and Democratic legislators alike have sponsored bills that address exclusionary discipline in every region of the United States.

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

On April 4, 2018, Secretary DeVos met with supporters and opponents of the Obama-era school discipline guidelines, suggesting she is considering its repeal.² As the federal government cedes education decision-making back to the states, and as research continuously substantiates the shortcomings of exclusionary

discipline, states will need to take up this issue on their own initiative.

It turns out that states are addressing the issue on their own, as noted by the wave of legislative action on the topic since January 2017. Through such legislation, it has become clear that reforming school discipline is a non-partisan, countrywide concern. Republican and Democratic legislators alike have sponsored bills that address exclusionary discipline in every region of the United States. However, as states continue to shift practice away from exclusionary discipline as a mainstay, much more needs to be done to shift toward new strategies and provide support for their implementation.

Recommendations

- States should identify evidence-based replacement strategies when discouraging, reducing, or prohibiting exclusionary discipline
- States should support teachers with professional development training in alternatives to exclusionary discipline
- States should support teacher candidates in their preparation programs by incentivizing or requiring credit-eligible coursework and training in alternatives to exclusionary discipline, including for example, PBIS, SEL, and restorative justice practices
- States should encourage and support school and system adoption and development of evidence-based SEL curricula
- States should prioritize funding for teaching research-based SEL curricula in preschool, elementary and secondary schools, career and technical education programs, colleges, and universities
- States should require school systems to collect data on disaggregate rates of exclusionary discipline, use of alternative disciplinary measures and indicators of their efficacy, as well as related indicators, such as those used for school climate
- States should require reporting of such data to state departments of education, to be made available publicly

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APPENDIX A

State	Bill	Status	Prohibit Exclusionary Discipline by Grade	Limited Action	Replacement Strategy	Funding	Teacher Prep	Professional Development
AR	SB 609	Enacted	K–5					
AZ	HB 2018	Proposed	PreK–2		Positive Behavioral Interventions and Supports (PBIS), behavioral intervention plan, Individualized Education Plan (IEP), referrals to student support team, referrals to community-based services			
	SB 1310	Proposed		X				
CA	SB 607	Dead	K–12		PBIS, trauma-informed care, SEL			
CO	HB 1211	Enacted		X	Culturally responsive methods in PreK–3	X		X
DC	B22-0594	Proposed	K–8		Positive approaches to discipline, restorative responses, evidence-based practices			X
IL	HB 5145	Proposed	K					X
	HB 2663	Enacted	PreK		Developmental screening, referrals to programs and services	X		X
	HB 4208	Proposed		X		X	X	
	HB 1779 SB 704	Proposed		X	Restorative justice practices	X		
IN	HB 1421	Enacted		X				X
LA	SB 465	Proposed		X				
MD	HB 425 SB 651	Enacted	PreK–2		PBIS, behavioral intervention plan, IEP, referrals to student support team, referrals to community-based services			
	HB 1287	Enacted		X				
MA	H 4131 S 2255	Proposed		X				X

State	Bill	Status	Prohibit Exclusionary Discipline by Grade	Limited Action	Replacement Strategy	Funding	Teacher Prep	Professional Development
MN	HF 2109 SF 2341	Proposed		X	PBIS	X		X
	HF 3587 SF 2920	Proposed		X	PBIS	X		
MS	HB 576	Dead		X	Behavior contract with teacher, behavior monitoring, positive feedback reinforcement, in-school suspension, after-school suspension		X	
NJ	AN 3519	Proposed		X				
NY	A 3837 S 3036	Proposed	K–3		Restorative discipline, SEL, prevention programs and services	X	X	X
OH	SB 246	Proposed	PreK–3		PBIS	X	X	X
PA	HB 1308	Proposed	K–5		Evidence-based or research-based behavioral supports, restorative practices			
	HB 715	Proposed	10 y.o. & under		Evidence-based or research-based behavioral supports, restorative practices			
TN	HB 872 SB 1394	Enacted	PreK–K		Research-based behavior management			
	HB 2651 SB 2218	Proposed		X	Restorative justice practices			
TX	HB 674	Enacted	PreK–3		PBIS, SEL, trauma-informed care, restorative practice			X
VA	HB 296	Enacted	K–3					
	HB 1924 SB 829	Enacted		X	Positive behavior incentives, mediation, peer-to-peer counseling, community service, and other intervention alternatives			
WA	SB 5155 HB 2767	Dead	K–2		PBIS, SEL, trauma-informed practices, referral services, and restorative practices			

This is a working document, and should you wish to provide updates or suggestions, if you have questions, or if you simply wish to connect with Committee for Children, please email us at: advocacy@cfchildren.org.